

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

LEROY JOSEY,	)	
	)	
Plaintiff,	)	
	)	Civil Action No. 10-177 Erie
v.	)	
	)	
PRISON HEALTH SYSTEM, et. al.,	)	
	)	
Defendants.	)	

**MEMORANDUM ORDER**

This civil rights action was received by the Clerk of Court on February 8, 2010 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [ECF No. 38], filed on April 4, 2012, recommended that the motion to dismiss filed by Defendants [ECF No. 30] be denied and that Plaintiff's motion "not to dismiss" [ECF No. 36] be dismissed as moot. The parties were allowed fourteen (14) days from the date of service to file objections and no objections were filed. After de novo review of the documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 27<sup>th</sup> day of April, 2011;

IT IS HEREBY ORDERED that the motion to dismiss filed by Defendants [ECF No. 30] is DENIED. IT IS FURTHER ORDERED that Plaintiff's motion "not to dismiss" [ECF No. 36] is DISMISSED as moot.

The Report and Recommendation [ECF No. 38] of Magistrate Judge Baxter, filed on April 4, 2012 is adopted as the opinion of the Court.

s/ Sean J. McLaughlin  
United States District Judge

cm: All parties of record  
Susan Paradise Baxter, U.S. Magistrate Judge